


**BEFORE THE DEPARTMENT OF PERSONNEL ADMINISTRATION  
OF THE STATE OF CALIFORNIA**

In the Matter of the Appeal by

Case No. SPB 97-3448

  
Correctional Sergeant  
From Involuntary Transfer  
15 Orange Street  
Susanville, CA 96130

Represented by:

Richard M. Murphy  
Attorney at Law  
2213 Main Street  
Susanville, CA 96130

Respondent:

Represented by:

Department of Corrections  
Personnel Officer  
1515 S Street, South Building  
Sacramento, CA 95814


Vickie DiMatteo  
Staff Counsel  
Department of Corrections  
Legal Affairs Division  
1515 S Street  
P.O. Box 942883  
Sacramento, CA 94283-0001

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby  
adopted as the Department's Decision in the above matter.

**IT IS SO ORDERED:**

June 10, 1998.



K. WILLIAM CURTIS  
Chief Counsel  
Department of Personnel Administration

BEFORE THE DEPARTMENT OF PERSONNEL ADMINISTRATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal by

[REDACTED]

Case No. 97-3448

From involuntary transfer as a  
Correctional Officer from the  
California Correctional Center to  
High Desert State Prison with the  
Department of Corrections at  
Susanville

PROPOSED DECISION

This matter came on regularly for hearing before Philip E. Callis, Administrative Law Judge, State Personnel Board, on November 20, 1997, and January 27 and 28, 1998, at Susanville, California. The matter was consolidated for hearing with appellant's State Personnel Board appeal from a related disciplinary action (case no. 97-2685).

Appellant, [REDACTED], was present and was represented by Richard M. Murphy, his attorney.

Respondent was represented by Vickie Di Matteo, Staff Counsel, Department of Corrections.

Evidence having been received and duly considered, the Administrative Law Judge makes the following findings of fact and Proposed Decision:

I

The above involuntary transfer effective October 1, 1997, and appellant's appeal therefrom comply with the procedural requirements of Government Code section 19994.3.

II

Appellant has been employed by the Department of Corrections since October 15, 1974. He began as a Correctional Officer and was promoted to Correctional Sergeant in 1987. Appellant has no prior adverse actions of record.

III

Appellant was suspended and demoted from his position as a Correctional Sergeant at the California Correctional Center for pressuring female Correctional Officers to pose for photographs during their off duty hours, and for taking nude photographs of one female officer during an off duty photo session in a remote rural area. Following this suspension and demotion, appellant was transferred from the California Correctional Center, where the incidents occurred, to High Desert State Prison. The notice of transfer stated in relevant part:

"Your actions, as set forth in your recent adverse personnel action dated June 13, 1997, have created a working environment which is not conducive to the efficient operation of the California Correctional Center or the Department. It is anticipated that this reassignment [to High Desert State Prison] will be in the best interest of all parties concerned."

IV

High Desert State Prison is located on grounds adjoining the California Correctional Center approximately one mile away. The two prisons have separate administrations and staffs. The transfer did not require a change in appellant's residence.

V

Appellant filed this appeal with the Department of Personnel Administration alleging that the transfer "was made for a punitive purpose."

\* \* \* \* \*

PURSUANT TO THE FOREGOING FINDINGS OF FACT, THE ADMINISTRATIVE LAW JUDGE MAKES THE FOLLOWING DETERMINATION OF ISSUES:

Government Code section 19994.3 prohibits transfers "made for the purpose of harassing or disciplining the employee." Black's Law Dictionary defines the phrase "for the purpose of" as meaning "with the intention of." In the instant case, appellant's transfer from the California Correctional Center to High Desert State Prison, although related to appellant's disciplinary action, was not made "for the purpose of" harassing or disciplining appellant. Instead, the transfer was made to ease appellant's transition to a non-supervisory position after his disciplinary demotion for misconduct. It would have been very uncomfortable for both appellant and his accusers to have

( [REDACTED] continued)

had to work as fellow officers had appellant remained at the California Correctional Center. Appellant's transfer to another institution, situated less than one mile away, does not appear to have created any hardship to appellant. Under the circumstances, the transfer was made for valid operational reasons and should not be disapproved.


\* \* \* \* \*

WHEREFORE IT IS DETERMINED that the protest of involuntary transfer by [REDACTED] effective October 1, 1997, is hereby denied.

\* \* \* \* \*

I hereby certify that the foregoing constitutes my Proposed Decision in the above-entitled matter and I recommend its adoption by the Department of Personnel Administration as its decision in the case.

DATED: April 28, 1998

  
Philip E. Callis  
Administrative Law Judge  
State Personnel Board